

BEFORE THE
CALIFORNIA BOARD OF OCCUPATIONAL THERAPY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

TERRI ANN SCHONBROD
San Lorenzo, California 94580

Occupational Therapist License No. OT 6305

Respondent.

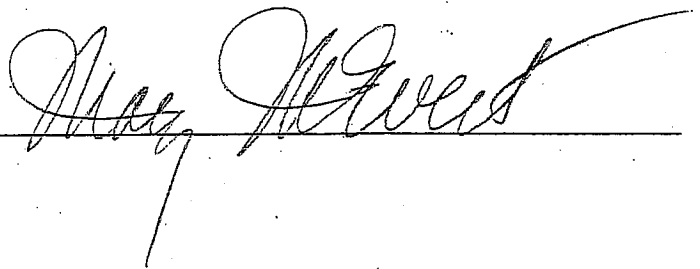
OAH No. 2009071063

DECISION

The attached Proposed Decision of the Administrative Law Judge is hereby adopted
by the California Board of Occupational Therapy as the Decision in the above-entitled matter.

This Decision shall become effective on December 29, 2009.

IT IS SO ORDERED December 14, 2009.



BEFORE THE
CALIFORNIA BOARD OF OCCUPATIONAL THERAPY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

TERRI ANN SCHONBROD
San Lorenzo, California 94580

OAH No. 2009071063

Occupational Therapist License No. OT 6305

Respondent.

PROPOSED DECISION

Administrative Law Judge Cheryl R. Tompkin, State of California, Office of Administrative Hearings heard this matter on September 29, 2009, in Oakland, California.

Claudia Phillips, Deputy Attorney General, represented complainant Heather Martin.

Respondent Terri Ann Schonbrod appeared on her own behalf.

The matter was submitted for decision on September 29, 2009.

FACTUAL FINDINGS

1. Complainant Heather Martin made the Accusation in her official capacity as Executive Officer of the California Board of Occupational Therapy (Board), Department of Consumer Affairs.
2. On February 14, 2003, the Board issued license number OT 6305 to Terri Ann Schonbrod (respondent). The license was in full force and effect at all times relevant to this proceeding. It will expire on March 31, 2010, unless renewed.
3. The Board seeks to impose discipline against respondent's license because she has been convicted of a criminal offense.
4. On October 23, 2008, in the Superior Court of the State of California for the County of Alameda, respondent was convicted, upon a plea of no contest, of violating Vehicle Code section 23152, subdivision (b) (driving with a blood alcohol level of .08

percent or higher), a crime which bears a substantial relationship to the qualifications, functions or duties of an occupational therapist.

Respondent was placed on three years probation on terms and conditions that included serving 15 days in county jail, temporary suspension of her driver's license and use of a breath alcohol ignition interlock device.

The events underlying respondent's conviction occurred on July 20, 2008, at approximately 12:07 a.m. Respondent was stopped by the California Highway Patrol after she was observed weaving across two lanes of traffic shortly after exiting Interstate 880 in San Leandro. Upon making contact with respondent, the patrol officer noted a strong smell of alcohol emitting from respondent's person and breath; her speech was slurred and her movements lethargic. Upon exiting her vehicle respondent's gait was unsteady. Respondent also failed a field sobriety test. Respondent provided two breath samples which indicated blood alcohol readings of 0.225 percent and 0.226 percent. Respondent was arrested and taken to jail.

5. Respondent's license ~~has been disciplined once~~ previously by the Board. Effective January 1, 2005, respondent's license was revoked, the revocation was stayed and respondent's license placed on three years probation. Probation was successfully completed on January 1, 2008. The basis for the discipline was respondent's prior convictions. On February 9, 2004, respondent was convicted of felony child endangerment, and misdemeanor driving under the influence. The circumstances of the conviction are that on December 23, 2004, respondent was stopped for driving erratically. She was found to have an open alcohol container in her possession and her six-year old daughter was seated in the right front seat of the car. Respondent's blood alcohol level also exceeded the legal limit, and she resisted arrest. On October 30, 2000, respondent was convicted of misdemeanor driving under the influence, which occurred on or about August 5, 2000. On September 24, 1993, respondent was convicted of driving with a blood alcohol level in excess of 0.08 percent, which occurred on or about July 23, 1993. As part of her probation with the Board, respondent was required to participate in a support group, refrain from the use of alcohol or controlled substances, and submit to random biological fluid testing.

6. Respondent admits driving under the influence on July 20, 2008, and testified that she accepts full responsibility for her actions. Respondent explained that on the evening of July 19, 2008, her boyfriend told her that he felt they should no longer see each other. Although she had been sober for nearly five years, respondent chose to handle the breakup by consuming alcohol. Her boyfriend then declined to allow her to spend the night at his home. Respondent acknowledges that she could have taken a taxi home or stayed at a hotel, but she was distraught and not thinking clearly and just wanted to get home. Unfortunately, she elected to drive herself and was stopped by the police.

Respondent provided the following explanations with respect to her other convictions: In 1993 she drank too much while out with friends and was stopped while driving home. She was sentenced to one year of probation and required to complete a first offenders program and

pay various fines and fees. She was not required to attend Alcoholics Anonymous (AA). In 2000 respondent drank too much while out dancing at a night club and was stopped while driving home. She was placed on two years probation and her driver's license was suspended for several months. She was also required to complete a first offenders program and pay various fines and fees. In 2004, while staying in the guest room at her sister's home, respondent was sexually assaulted by her brother-in-law. Respondent "handled it by drinking." She was arrested while driving home. Respondent disclosed the assault to a girlfriend and her therapist, but has never told her sister. Respondent was sentenced to 14 days in jail and placed on three years probation. Her driver's license was suspended for two years, but she was allowed to drive with an interlock device after one year. She was also required to attend AA. Following her 2004 conviction, respondent entered a 30-day outpatient rehabilitation program, which helped her to stop drinking alcohol completely. The program was not required by the court or the Board. Respondent voluntarily entered the program because she realized that she had a drinking problem.

7. Respondent is a 47-year-old single mother of a 12-year-old daughter. She obtained an Associate of Arts degree in 1982, which qualified her to practice Certified Occupational Therapy. She returned to school at San Jose State University to obtain a Bachelor's degree and become a Certified Hand Therapist (CHT). She graduated in 1994. Following graduation, respondent obtained her current position at Alta Bates Summit Medical Center. She has worked for Alta Bates for over 13 years. In 2004 respondent sat for the CHT exam and passed. Respondent has been involved in program planning, providing continuing education services, mentoring therapists and supervision of fieldwork students as part of her employment at Alta Bates. Respondent represents she has never gone to work intoxicated and has not had any work related issues due to alcohol. She loves her job and has always done her best to perform to a high standard and feels she is valued by her manager, her co-workers and her patients.

8. Respondent acknowledges she made a grave mistake in drinking and driving. She believes she resorted to alcohol when faced with a crisis because she had allowed herself to drift away from AA and her sponsor. She has taken steps to ensure that she never reverts to alcohol use again. Respondent now attends AA as frequently as she can, usually two to three times per week. She has a temporary AA sponsor and is seeking a permanent sponsor. Respondent also undergoes weekly acupuncture sessions to relieve stress, has attended individual psychotherapy sessions, and has consulted with a psychiatrist, who has placed her on anti-depressant medication. Respondent was previously unwilling to take medication to help address her addiction. In addition, respondent exercises regularly and has started attending church for spiritual support. Respondent is also attending a court-ordered driving under the influence program through Occupational Health Services, which includes weekly group sessions, bi-monthly individual counseling sessions, six education classes and a six-month transition program. The whole program is 18 months. Respondent is in the 10th month of the program. Respondent believes these measures, in conjunction with the reality that the profession she loves and her ability to support herself and her daughter are at risk, will enable her to refrain from drinking alcohol.

9. Respondent submitted two letters of support at hearing. In a letter dated September 23, 2009, Sue Elderkin, Clinical Coordinator for Alta Bates Summit Physical, Sports and Hand Therapy, writes to "vouch for the professional standards of [respondent] and advocate for her retention of her Occupational Therapist and Certified Hand Therapist License." Elderkin notes that respondent has been under her supervision since 2007 and is an exceptional employee who regularly receives positive patient comments. She has also observed respondent to be a strong clinician, a strong leader, very responsible and professional. Elderkin states she is aware of respondent's licensing problems but feels respondent has learned her lesson and should be allowed to retain her license.

In a letter dated September 22, 2009, Sara Rankin, writes that she has been providing acupuncture treatment to respondent to address respondent's alcohol addiction and emotional stress. Rankin notes that respondent has shown a commitment to "her healing process, both emotionally and physically," and to living a healthy and responsible lifestyle. Rankin also notes that respondent always speaks of her professional life with great enthusiasm and seems to care deeply about her patients.

Respondent also submitted two customer service acknowledgements thanking her for going beyond the normal call of duty to assist a patient.

10. The Board certifies that the following costs were incurred in connection with the investigation and prosecution of this Accusation:

Attorney General Fees

2008-2009	11.75 hours @ \$170 per hour	\$ 1,856.50
2009-2010	04.00 hours @ \$158 per hour	680.00

Paralegal Fees

2008-2009	2.0 hours @ 101 per hours	<u>202.00</u>
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TOTAL COSTS INCURRED: \$ 2,738.50

11. Respondent does not object to the Board's costs.

LEGAL CONCLUSIONS

1. Business and Professions Code section 2570.28, subdivision (a), authorizes a board to discipline a license for unprofessional conduct. Subdivision (e) of that same section authorizes a board to discipline a license if a licensee has been convicted of an offense that is substantially related to the qualifications, functions or duties of the licensee. Business and Professions Code section 2570.29, subdivision (b)(3), defines unprofessional conduct to

include use of alcoholic beverages to an extent or in a manner dangerous or injurious to oneself or others. Subdivision (c) of section 2570.29, defines unprofessional conduct to include conviction of a criminal offense involving the consumption of alcohol.

2. Cause for license discipline exists pursuant to Business and Professions Code sections 2570.28, subdivision (e), and 2570.29, subdivision (b)(3), in conjunction with 2570.28, subdivision (a), in that respondent has been convicted of a crime which bears a substantial relationship to the qualifications, functions or duties of a licensed vocational nurse, as set forth in Finding 4.

3. Cause for license discipline exists pursuant to Business and Professions Code section 2570.29, subdivision (c), in conjunction with 2570.28, subdivision (a), in that respondent has been convicted of a criminal offense involving the consumption of alcohol, as set forth in Finding 4.

4. Business and Professions Code section 125.3 provides that a respondent may be ordered to pay the Board "a sum not to exceed the reasonable costs of the investigation and enforcement of the case." That section also provides that the Board's certification of the actual costs constitutes prima facie evidence of the reasonable costs. The costs set forth in Finding 11 were established by such a certification. The reasonable costs of investigation and enforcement are therefore determined to be \$2,738.50.

5. Respondent clearly exercised poor judgment when she decided to drink and drive after breaking up with her boyfriend. She asserts it was an unfortunate response to an isolated crisis and that will not occur again because she has put systems in place to prevent a relapse. Despite respondent's assurances, it is of concern that respondent has suffered three prior driving under the influence convictions, which suggest a pattern of excessive alcohol use. However, respondent was clean and sober for over four years before her most recent relapse and she has taken additional steps, including seeking counseling, taking antidepressant medication, and attending church, to prevent a future relapse. And there is no evidence that respondent has ever performed less than professionally as an occupational therapist. In fact, her direct supervisor characterizes her as an exceptional employee. Although license discipline is clearly warranted, it is determined that probation, not revocation, is the appropriate penalty.

ORDER

Occupational Therapist License No. OT 6305, issued to respondent Terri Ann Schonbrod, is revoked. However, the revocation is stayed, and respondent is placed on probation for three (3) years upon the following terms and conditions.

1. Obey All Laws - Respondent shall obey all federal, state and local laws and regulations governing the practice of occupational therapy in California. Respondent shall submit, in writing, a full detailed account of any and all violations of the law to the Board within five (5) days of occurrence.

2. Compliance with Probation and Quarterly Reporting - Respondent shall fully comply with the terms and conditions of probation established by the Board and shall cooperate with representatives of the Board in its monitoring and investigation of Respondent's compliance with probation.

Respondent, within 10 days of completion of the quarter, shall submit quarterly written reports to the Board on a Quarterly Report of Compliance form obtained from the Board.

3. Personal Appearances - Upon reasonable notice by the Board, respondent shall report to and make personal appearances at times and locations as the Board may direct.

4. Notification of Address and Telephone Number Change(s) - Respondent shall notify the Board, in writing, within five (5) days, of a change of residence or mailing address, of her new address and any change in work and/or home telephone numbers.

5. Tolling for Out-of-State Practice, Residence or In-State Non-Practice - In the event respondent should leave California to reside or to practice outside the State for more than thirty (30) days, respondent shall notify the Board or its designee, in writing, within ten (10) days, of the dates of departure and return. All provisions of probation other than the quarterly report requirements, examination requirements, and education requirements, shall be held in abeyance until respondent resumes practice in California. All provisions of probation shall recommence on the effective date of resumption of practice in California.

6. Notification to Employer(s) - When currently employed or applying for employment in any capacity in any health care profession, respondent shall notify her employer of the probationary status of her license. This notification to the current employer shall occur no later than the effective date of this Decision. Respondent shall notify any prospective health care employer of her probationary status with the Board prior to accepting such employment. This notification shall be made by providing the employer or prospective employer with a copy of the Board's Accusation and Disciplinary Decision.

Respondent shall cause each health care employer to submit quarterly reports to the Board. The report shall be on a form provided by the Board, and shall include a performance evaluation and such other information as may be required by the Board.

Respondent shall notify the Board, in writing, within five (5) days of any change in employment status. Respondent shall notify the Board, in writing,

within five (5) days, if she is terminated from any occupational therapy or health care related employment, with a full explanation of the circumstances surrounding the termination.

7. Employment Requirements and Limitations - During Probation, respondent shall work in her licensed capacity in the State of California. This practice shall consist of no less than six (6) continuous months and of no less than twenty (20) hours per week.

While on probation, respondent shall not work for a registry or in any private duty position, except as approved, in writing, by the Board. Respondent shall work only on a regularly assigned, identified and pre-determined work sites(s) and shall not work in a float capacity except as approved, in writing, by the Board.

8. Supervision Requirements - Respondent shall obtain prior approval from the Board, before commencing any employment, regarding the level of supervision provided to respondent while employed as an occupational therapist or occupational therapy assistant.

Respondent shall not function as a supervisor during the period of probation except as approved, in writing, by the Board.

9. Continuing Education Requirements - Continuing education shall be completed within a period of time designated by the Board, which timeframe shall be incorporated as a condition of this probation.

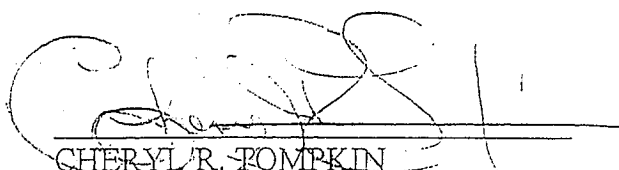
Continuing education shall be in addition to the professional development activities required for license renewal. The Board shall notify Respondent of the course content and number of contact hours required. Within thirty (30) days of the Board's written notification of the assigned coursework, respondent shall submit a written plan to comply with this requirement. The Board shall approve such plan prior to enrollment in any course of study.

Failure to satisfactorily complete the required continuing education as scheduled, or failure to complete same no later than one-hundred (100) days prior to the termination of probation, shall constitute a violation of probation. Respondent is responsible for all costs of such continuing education. Upon successful completion of the course(s), respondent shall cause the instructor to furnish proof to the Board within thirty (30) days of course completion.

10. Maintenance of Valid License - Respondent shall, at all times while on probation, maintain an active current license with the Board, including any period during which license suspension or probation is tolled.

11. Cost Recovery - Within ninety (90) days of the effective date of this Decision, respondent shall reimburse the Board the sum of \$2,738.50 for its costs of investigation and prosecution. Failure to reimburse the Board its costs of investigation and prosecution shall be considered a violation of probation unless the Board agrees in writing to payment by an installment plan because of financial hardship.
12. Chemical Dependency Support/Recovery Groups - Within five (5) days of the effective date of this Decision, respondent shall begin attendance at a chemical dependency support group (e.g., Alcoholics Anonymous, Narcotics Anonymous, Nurse Support Group). Verified documentation of attendance shall be submitted by respondent with each quarterly report. Respondent shall continue attendance in such a group for the duration of probation.
13. Abstain From Controlled Substances - Respondent shall completely abstain from the personal use or possession of controlled substances, as defined in the California Uniform Controlled Substances Act, and dangerous drugs as defined in sections 4021 and 4022 of the Business and Professions Code, except when lawfully prescribed by a licensed practitioner for a bona fide illness.
14. Abstain From Use of Alcohol - Respondent shall completely abstain from the use of alcoholic beverages during the period of probation.
15. Submit Biological Fluid Samples - Respondent shall immediately submit to biological fluid testing, at respondent's cost, upon request by the Board or its designee. There will be no confidentiality in test results; positive test results will be immediately reported to the Board and respondent's current employer.
16. Violation of Probation - If respondent violates probation in any respect, the Board, after giving respondent notice and opportunity to be heard, may revoke probation and carry out the disciplinary order which was stayed. If an accusation or a petition to revoke probation is filed against respondent during probation, the Board shall have continuing jurisdiction until the matter is final, and the period of probation shall be extended until the matter is final.
17. Completion of Probation - Upon successful completion of probation, respondent's license will be fully restored.

DATED: October 28, 2009



CHERYL R. POMPKIN

Administrative Law Judge
Office of Administrative Hearings

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BEFORE THE
CALIFORNIA BOARD OF OCCUPATIONAL THERAPY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

TERRI ANN SCHONBROD
1551 Tracy Street, Apt C
San Lorenzo, CA 94580

Occupational Therapy License No. OT6305
Respondent

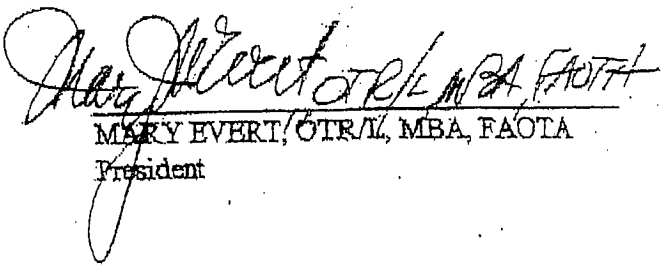
Case No. OT2008-13

ORDER VACATING
DEFAULT DECISION

Good cause appearing therefore, Respondent Terri Ann Schonbrod's request to set aside the Default Decision is granted in Decision No. OT2008-13. The Default Decision ordered June 23, 2009, which is effective on July 23, 2009, is hereby vacated and the matter shall be set for hearing.

Dated: July 20, 2009

California Board of Occupational Therapy


MARY EVERT, CTR/L, MBA, FAOTA
President

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8 **BEFORE THE**
9 **CALIFORNIA BOARD OF OCCUPATIONAL THERAPY**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. OT2008-13

13 **TERRI ANN SCHONBROD**

15551 Tracy Street, Apt. C
San Lorenzo, California 94580

DEFAULT DECISION AND ORDER

14 Occupational Therapist License No. OT6305

[Gov. Code, §11520]

15 Respondent.

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17 **FINDINGS OF FACT**

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19 1. On or about March 18, 2009, Complainant Heather Martin, in her official capacity as
20 the Executive Officer of the California Board of Occupational Therapy, Department of Consumer
21 Affairs, filed Accusation Number OT2008-13 against Terri Ann Schonbrod (Respondent) before
22 the California Board of Occupational Therapy (Board).

23 2. On or about February 14, 2003, the Board issued Occupational Therapist License
24 Number OT6305 to Respondent. The Occupational Therapist License was in full force and effect
25 at all times relevant to the charges brought herein and will expire on March 31, 2010, unless
26 renewed.

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1 3. The agency has jurisdiction to adjudicate this case by default.

2 4. The California Board of Occupational Therapy is authorized to revoke Respondent's
3 Occupational Therapist License based upon the following violations alleged in the Accusation:

4 a. Business and Professions Code section 2570.28(e) (conviction of a crime
5 substantially related to the duties, qualifications, and functions of an occupational therapist);

6 b. Business and Professions Code section 2570.29(b)(3) in conjunction with Business
7 and Professions Code section 2570.28(a) (unprofessional conduct: use of alcohol in a dangerous
8 manner); and

9 c. Business and Professions Code section 2570.29(c) in conjunction with Business and
10 Professions Code section 2570.28(a) (unprofessional conduct: conviction of a crime involving the
11 consumption of alcohol).

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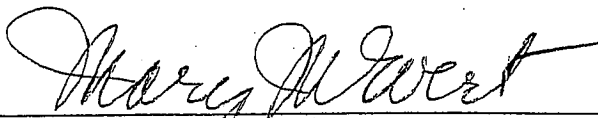
ORDER

IT IS SO ORDERED that Occupational Therapist License No. OT6305, heretofore issued to Respondent Terri Ann Schonbrod, is revoked.

Pursuant to Government Code section 11520, subdivision (c), Respondent may serve a written motion requesting that the Decision be vacated and stating the grounds relied on within seven (7) days after service of the Decision on Respondent. The agency in its discretion may vacate the Decision and grant a hearing on a showing of good cause, as defined in the statute.

This Decision shall become effective on July 23, 2009.

It is so ORDERED June 23, 2009.



FOR THE CALIFORNIA BOARD OF OCCUPATIONAL THERAPY
DEPARTMENT OF CONSUMER AFFAIRS

Attachment:

Exhibit A: Accusation No. OT2008-13

90114479.DOC
DOJ docket number: SF2009403160